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TRAINING AND ASSISTANCE

Note by the Secretariat

Contents

	Paragraphs	Page
INTRODUCTION	1-2	2
I. INTERNATIONAL, REGIONAL AND NATIONAL SEMINARS	3-11	2
II. POSSIBLE FUTURE ACTIVITIES	12-14	4
III. TECHNICAL ASSISTANCE	15	4
IV. INTERNSHIP PROGRAMME	16	5
V. FINANCIAL AND ADMINISTRATIVE CONSIDERATIONS	17-19	5

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INTRODUCTION

1. At the twentieth session of the Commission (1987), it was decided that increased emphasis should be given both to training and assistance and to the promotion of the legal texts prepared by the Commission, especially in developing countries. It was recognized that the holding of seminars and symposia in developing countries would make those countries conscious of UNCITRAL legal texts and thereby promote and inspire the adoption of the texts. Accordingly, it was noted that "training and assistance was an important activity of the Commission and should be given a higher priority than it had in the past". 1/

2. Pursuant to that decision of the Commission, the secretariat has endeavoured to devise a more extensive programme of training and assistance than had been previously carried out. The programme is designed primarily to acquaint lawyers, government officials and scholars, particularly from developing countries, with the work of UNCITRAL and with the legal texts that have emanated from its work and to promote the adoption and use of those texts. This note sets out activities of the secretariat subsequent to the twenty-fourth session of the Commission (1991) and discusses possible future activities.

I. INTERNATIONAL, REGIONAL AND NATIONAL SEMINARS

A. Regional seminar on international trade law in Fiji (Suva, 21 to 25 October 1991)

3. As announced to the twenty-fourth session of the Commission (1991), 2/ a regional seminar on international trade law, organized jointly with the South Pacific Forum Secretariat, was held at the Forum Secretariat Headquarters in Suva, Fiji.

4. In November 1990, the Forum Regional Security Committee of the South Pacific Forum, a regional organization with a membership of 15 States, had decided that a seminar on international trade law would be an important event for the region and endorsed the plan to hold the Forum Secretariat/UNCITRAL Seminar on International Trade Law.

5. Sixteen participants, who were mainly senior government officials and therefore well placed in their respective countries to influence decisions relating to acceptance of UNCITRAL legal texts, attended the seminar. They were from the following member States of the South Pacific Forum: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Vanuatu.

1/ Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

2/ Report of the United Nations Commission on International Trade Law on the work of its twenty-fourth session, Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17 (A/46/17), para. 338.

6. The Forum Secretariat provided the facilities necessary for the holding of the seminar, which was financed by a grant of the Government of Australia and by funds of the UNCITRAL Trust Fund for Symposia. Australia further supported the seminar by providing two lecturers; the other lecturers were a Canadian consultant, a lawyer from the region and two members of the secretariat of the Commission.

7. The seminar covered international sale of goods, international transport and storage of goods, international dispute settlement and international payments. The following legal texts were presented for examination and discussion: UNCITRAL Model Law on International Commercial Arbitration (1985); Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Convention on the Limitation Period in the International Sale of Goods (New York, 1974) as amended by the 1980 Protocol; and United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988). In addition, the UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works and the current work on a legal guide on international countertrade transactions, a model law on procurement, and a uniform law on guarantees and stand-by letters of credit were presented for discussion.

8. During the discussions that followed the lectures, it was widely recognized that the existing legislation of most of the Forum States might well be inadequate to meet present day requirements. Accordingly, the following suggestions were made: (i) that all participants should make appropriate recommendations and reports to their respective Governments; and (ii) that the conclusions and observations of the seminar should be reported to the Forum Regional Security Committee and to the Forum Officials Committee for their consideration of further regional initiatives. Such further initiatives might focus on the desirability of regional uniformity in trade law and on technical assistance in further evaluating the relation between existing national laws and prevailing laws and practices in international trade. As regards international dispute settlement, it was suggested that the Forum States might wish to consider providing a legal climate for arbitrations in their region so as to reduce the need for having their disputes settled in possibly distant jurisdictions outside the region. For that reason the Forum States should adhere to the 1958 New York Convention, enact legislation based on the UNCITRAL Model Law, and consider the establishment of a regional arbitration centre ("Pacific Arbitration Forum") that would use as its institutional rules the UNCITRAL Arbitration Rules.

9. The UNCITRAL secretariat has remained in close contact with the Forum Secretariat and with participants from the seminar in an effort to maintain the interest generated towards adoption of the texts that have emanated from the work of the Commission.

B. National seminar on international commercial arbitration in Mexico (Mexico City, 20-21 February 1992)

10. A seminar on international commercial arbitration was held in Mexico City from 20 to 21 February 1992. The seminar was jointly organized by the

Mexican Ministry of External Relations and the secretariat of the Commission. Lectures were given by four Mexican experts, a consultant and a member of the secretariat on various legal texts, including the UNCITRAL Model Arbitration Law and the UNCITRAL Arbitration Rules, and on various issues of international arbitration practice. The seminar was attended by about 80 ministry officials, practitioners and teachers of law.

C. Other seminars and courses

11. Members of the UNCITRAL secretariat have participated as speakers in the following seminars and courses where UNCITRAL legal texts were presented for examination and discussion: United Nations-UNITAR Fellowship Programme on International Law (The Hague, 5 to 9 August 1991), Arbitration Seminar (Sydney, 18 October 1991), Annual Australian Seminar on International Trade Law (Canberra, 18 and 19 October 1991), and Seminar on Arbitration (Dhahran, 18 and 19 November 1991).

II. POSSIBLE FUTURE ACTIVITIES

12. The secretariat expects to intensify even further its efforts to organise or co-sponsor seminars and symposia on international trade law, especially for developing countries.

A. Fifth UNCITRAL Symposium

13. As announced to the twenty-fourth session of the Commission (A/46/17, para. 337), in view of the interest shown in the fourth UNCITRAL Symposium and of the advantages of holding symposia in connection with the sessions of the Commission when they are held at the location of the Commission's secretariat at Vienna, it is intended to organise the fifth UNCITRAL Symposium on International Trade Law on the occasion of the twenty-sixth session of the Commission, in 1993.

B. Tentative plans for seminars

14. The secretariat has received requests for holding seminars from various States in Africa, Asia and Latin America. Tentative plans have been made for organizing in November 1992 a series of national seminars in Indonesia, the Philippines and, possibly, Malaysia and Thailand. If sufficient funds were available, another such series might next be organized in some countries of Latin America.

III. TECHNICAL ASSISTANCE

15. The awareness of the UNCITRAL legal texts among many countries, in particular developing countries, is coupled with increasing requests for technical assistance from individual Governments or regional organizations. The secretariat has been requested on a number of occasions to consult with individual countries during their consideration of one of the UNCITRAL texts. This has normally consisted of comments in writing on reports and draft legislation, preparation of "accession kits" or a comparison of the UNCITRAL legal text with the existing law of a given country and a discussion of its advantages and disadvantages in comparison to the existing law. Requests from regional organizations range from review of laws of member States with a view to harmonization and possible unification to provision of a consultant.

IV. INTERNSHIP PROGRAMME

16. The internship programme is designed to enable persons who have recently obtained a law degree, or who have nearly completed their work towards such a degree, the opportunity to serve as interns in the International Trade Law Branch. Interns are assigned specific tasks in connection with projects being worked on by the secretariat. Persons participating in the programme are able to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. In addition, the secretariat occasionally accommodates scholars and legal practitioners for a limited period of time. Unfortunately, no funds are available to the secretariat to assist the interns to cover their travel and other expenses. The interns are often sponsored by an organization, university or a Government agency, or they meet their expenses from their own means. During the past year the secretariat has received three interns.

V. FINANCIAL AND ADMINISTRATIVE CONSIDERATIONS

17. The programme of training and assistance, in particular the holding of regional or national seminars, depends on the continued availability of sufficient financial resources. No funds for the travel expenses of participants or lecturers are provided for in the regular budget. As a result expenses have to be met by voluntary contributions to the UNCITRAL Trust Fund for Symposia.

18. Of particular value have been the contributions made to the UNCITRAL Trust Fund for Symposia on a multi-year basis, because they have permitted the secretariat to plan and finance the programme without the need to solicit funds from potential donors for each individual activity. Such contributions have been received from Canada and Finland. In addition, the annual contribution from Switzerland has been used for the seminar programme. Other financial contributions were made by Australia and France. As announced to the twenty-fourth session of the Commission, Australia also made a specific contribution to the seminar held in Fiji in October 1991 (A/46/17, para. 338).

19. The Commission may wish to express its appreciation to those States and organisations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars. The Commission may also wish to request the secretariat to continue its efforts to secure the financial, personnel and administrative support necessary to place the programme on a firm and continuing basis. Finally, the Commission may wish to appeal to all States to consider making contributions to the UNCITRAL Trust Fund for Symposia so as to enable the secretariat to meet the increasing demands in developing countries for training and assistance.